

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address:
LAZY TJ ENTERPRISES, LLC
C/O BRENT AMUNRUD
6280 JOHNSON RD
BOZEMAN, MT 59718
2. Type of action: Application to Change an Existing Water Right No. 41H 30159389 and Petition to Modify Provisional Permit 41H 30148637 by Lazy TJ Enterprises, LLC.
3. Water source name: Hyalite Creek (Change Application 41H 30159389) and Groundwater (Petition to Modify Permit 41H 30148637)
4. Location affected by project: The Applicant proposes to change the purpose and timing of use for of Statement of Claim 41H 15887-00 authorized by Change Authorization 41H 30148636. The previous change established an infiltration gallery for mitigation in the SENWSE of Section 2, Township 3 South, Range 5 East, Gallatin County. The proposed change (41H 30159389) will remain in this place of use (POU). The mitigation plan is intended to offset depletions associated with 37 wells associated with Provisional Permit 41H 30148637 in the NE of Section 2, T3S, R5E, Gallatin County. The Petition to Modify Permit 41H 30148637 proposes to change the timing of mitigation; the POU will remain the same. The point of diversion (POD) will remain the same and is located at the Hoy Ditch headgate on Hyalite Creek in the SENWNW Section 14, T3S, R5E, Gallatin County.
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant submitted Petition to Modify Provisional Permit 41H 30148637 and Change Application 41H 30159389 to the Bozeman DNRC Water Resources Office on February 16th, 2023. The Applicant proposes to change Statement of Claim 41H 15887-00 for the purpose of aquifer recharge. Claim 41H 15887-00 was part of Change Authorization 41H 30148636, issued June 16, 2022, to change the purpose from irrigation to aquifer recharge. Change Application 41H 30159389 is similar to previous Change Authorization 41H 30148636. The motivation for a second change, Change Application 41H 30159389, is to change the period of use and diversion of the aquifer recharge use. No change in place of use, point of diversion, or place of storage is proposed. The Petition requests to modify the timing of mitigation water delivery from June 1st – August 31st to May 14th – July 31st.

The DNRC shall issue a Change Authorization if an applicant proves the criteria in 85-2-402 MCA are met.

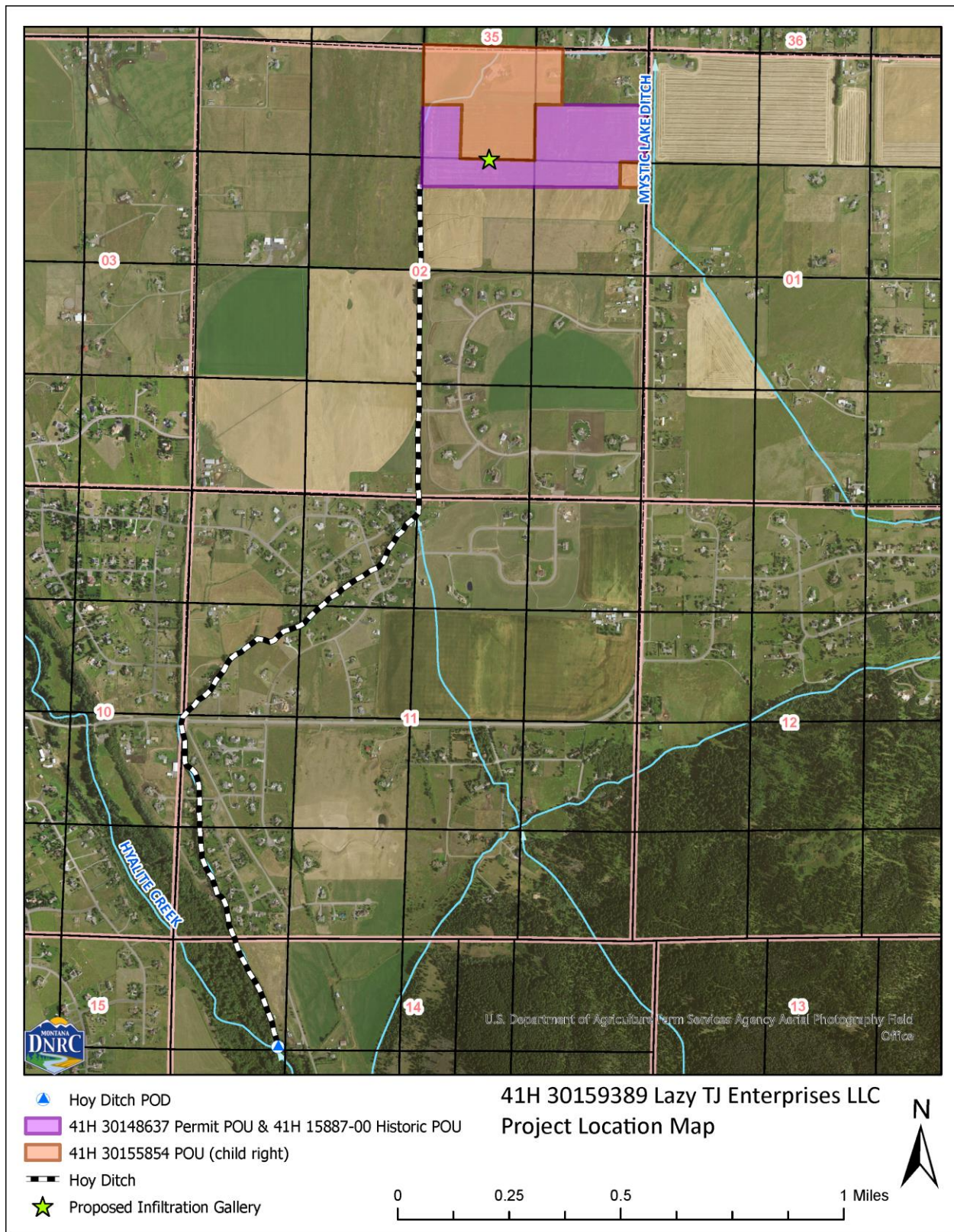


Figure 1. Historical and Proposed Use

6. Agencies consulted during preparation of the Environmental Assessment: (include agencies with overlapping jurisdiction)
- Montana Department of Fish, Wildlife & Parks (FWP) – Dewatered Streams Page 3 of 4
https://gis-mtftp.opendata.arcgis.com/datasets/e0849312c41b415992a075f8696164c8_0/explore?location=46.751212%2C-110.425168%2C7.85
 - Montana Department of Environmental Quality (DEQ) – Clean Water Act Information Center (CWAIC) <https://clean-water-act-information-center-mtdeq.hub.arcgis.com/>
 - Montana National Heritage Program (MTNHP) – Natural Heritage Map Viewer
<https://mtnhp.org/mapviewer/?t=7>
 - U.S. Fish & Wildlife Service (USFWS) – National Wetlands Inventory Wetlands Mapper
<https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper>
 - Natural Resource Conservation Service (NRCS) – Web Soil Survey (WSS)
<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

Determination: No significant impact.

A November 22, 2023, search of FWP Dewatered Streams data shows Hyalite Creek as chronically dewatered. However, no change in the historically diverted or consumed volume will occur with the proposed change. Water will be conveyed in the Hoy Ditch as it occurred historically. The priority date for the water right proposed for change is May 31, 1882, and no change in the timing or location of return flows to Hyalite Creek will occur under the proposed change.

The source of water for Petition to Modify Provisional Permit 41H 30148637 is groundwater, which is not assessed by DFWP.

Water quality - Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.

Determination: No significant impact.

A November 22, 2023, search of DEQ Impaired Waters 2020 data on the CWAIC identified Hyalite Creek, from Hyalite Reservoir to the Bozeman water supply diversion ditch, Section 23, T3S, R5E, is fully supporting Aquatic Life and Primary Contact Recreation. Drinking Water and Agricultural beneficial uses have not been assessed for this reach. The proposed change in

purpose is unlikely to further contribute to water quality degradation. Water will be diverted at the historical POD at the Hoy Ditch headgate as it occurred historically and will not require modifications to the streambank or channel. No change in the diverted or consumed volume of water will occur with the proposed change.

Groundwater is not listed by the Montana DEQ on the CWAIC website. The groundwater wells for Provisional Permit 41H 30148637 and use through Petition to Modify Permit 41H 30148637 will be constructed in accordance with the rules of the Board of Water Well Contractors. The wells are unlikely to impact surface water quality.

Groundwater - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: No significant impact.

The Applicant submitted Petition to Modify Permit 41H 30148637 that includes an adjusted mitigation plan to offset depletions to surface water from Provisional Permit 41H 30148637. The Petition to Modify will adjust the timing of aquifer recharge to offset depletions and will mitigate depletions in full. No impact to adjacent surface water flows will occur with the project. The Applicant conducted an aquifer test and the Department has determined that groundwater is legally available in the amount requested. The 37 wells, permitted under Provisional Permit 41H 30148637, are to be constructed by a licensed well driller following the Board of Water Well Contractors rules and procedures. No impacts to groundwater quality will occur with the project.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: No significant impact.

No change in the OD or means of diversion will occur with the proposed change. The historically diverted volume will continue to be diverted at the Hoy Ditch headgate and conveyed to the POU in the existing Hoy Ditch. No modification or impacts to the streambank or channel will occur with the Change Application 41H 30159389.

The diversion wells associated with Petition to Modify Permit 41H 30148637 will not be changed with a granted modification. The wells are to be constructed by a licensed well driller following the Board of Water Well Contractors rules and procedures. No impacts to riparian areas or stream channels will occur with construction of the diversion wells (PODs).

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - *Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."*

Determination: No significant impact.

A November 22, 2023, search of the Montana Heritage Program's website for T3S, R5E, returned the following results:

- 30 animal Species of Concern: Canada Lynx, Grizzly Bear, Hoary Bat, Little Brown Myotis, Long-legged Myotis, Townsend's Big-eared Bat, Wolverine, American Goshawk, Black Rosy-Finch, Black-backed Woodpecker, Black-billed Cuckoo, Bobolink, Brewer's Sparrow, Brown Creeper, Cassin's Finch, Clark's Nutcracker, Evening Grosbeak, Golden Eagle, Great Blue Heron, Great Gray Owl, Green-tailed Towhee, Harlequin Duck, Lewis's Woodpecker, Long-billed Curlew, Pacific Wren, Pileated Woodpecker, Varied Thrush, Veery, Western Toad, Westslope Cutthroat Trout
- 0 animal Potential Species of Concern
- 1 animal Special Status Species: Bald Eagle
- 4 plant Species of Concern: Slender Cottongrass, Rocky Mountain Twinpod, Whitebark Pine, Oregon Checker-mallow
- 3 plant Potential Species of Concern: Small Yellow Lady's-slipper, Shrubby Willowherb, Slender Wedgegrass
- 0 plant Special Status Species

Wetlands - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

Determination: No significant impact.

A November 22, 2023, search of the US Fish and Wildlife Service National Wetlands Inventory did not identify any wetlands within the proposed project area. No wetlands will be affected by the construction of the proposed infiltration gallery or wells.

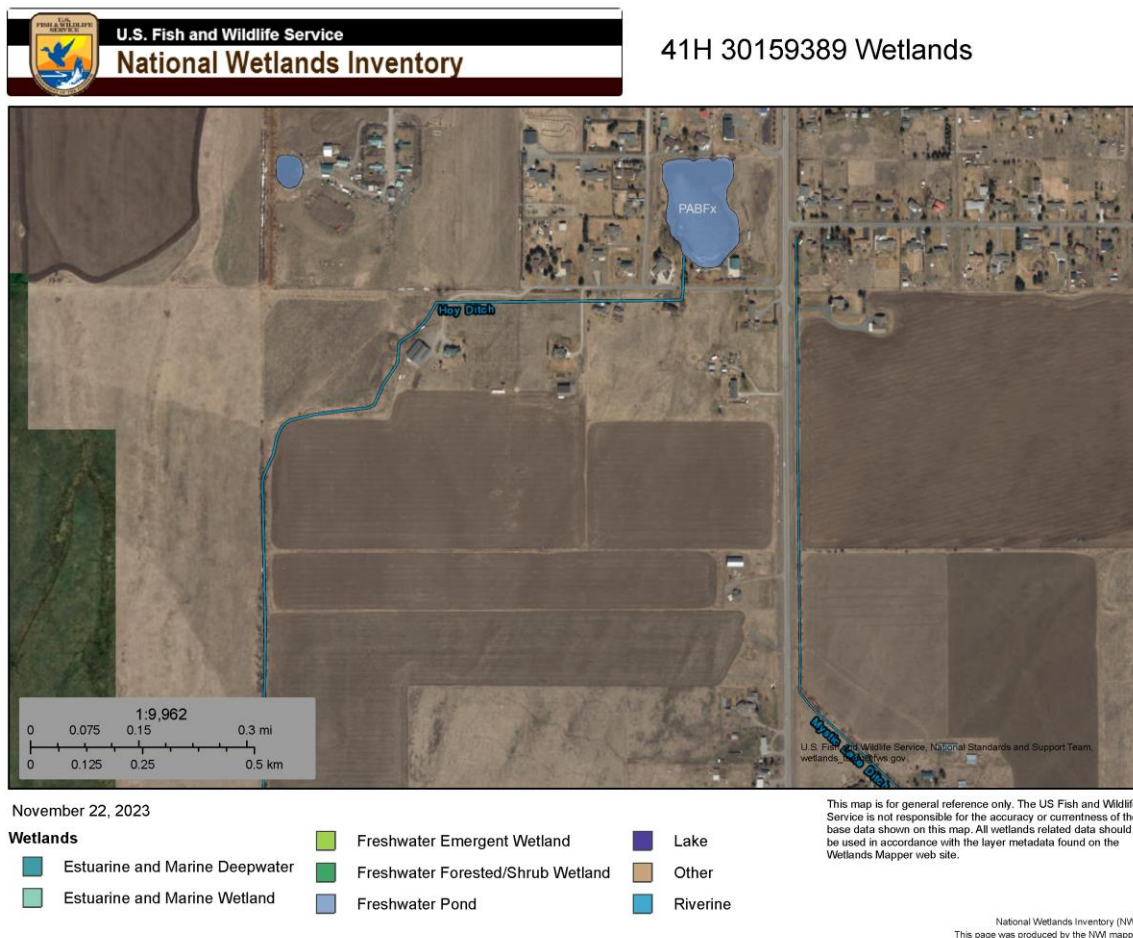


Figure 2. Wetlands in the Proposed Project Area

Ponds - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

Determination: No impact.

No ponds are involved in the proposed project.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

Determination: No significant impact.

A November 22, 2023, search of the NRCS Web Soil Survey identified the proposed project is located primarily in loam and silty clay loam soil types. The infiltration gallery will be constructed at a depth of approximately three feet in cobbly loamy sand soil type. The project is located within a proposed rural subdivision and no degradation of soil quality or stability will occur from the infiltration gallery.

The wells are to be constructed by a licensed well driller following the rules of the Board of Water Well Contractors. A temporary disturbance to soils will occur during construction of the wells but will not impact long term soil stability or quality. Use of water for multiple domestic and lawn and garden irrigation purposes are consistent with locally accepted practices and will not significantly impact soil quality. Changing the timing of mitigation will not change the purposes of the water or construction of the wells. The soil types in the vicinity of the proposed project are not heavy in salts and no saline seeps will occur from the proposed project.

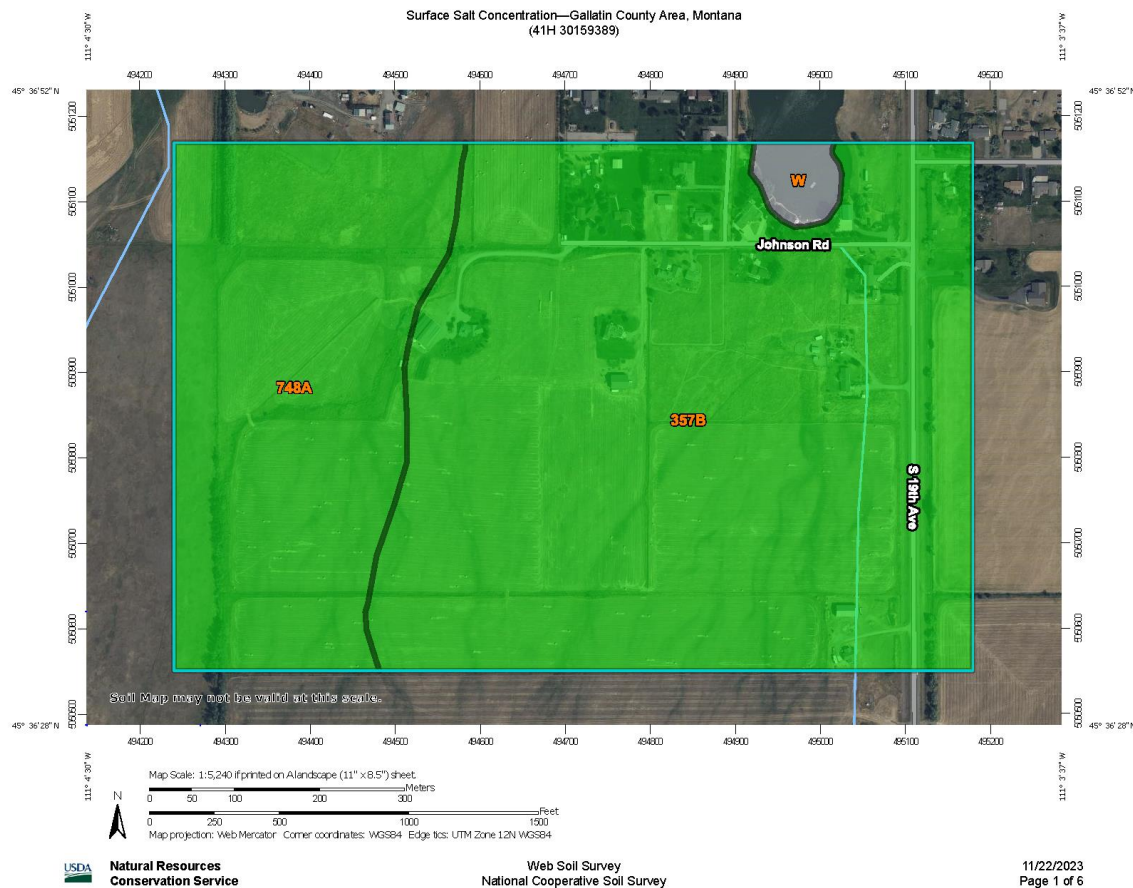


Figure 3. Surface Salt Concentration for Proposed Project Area

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.

Determination: No significant impact.

The project is located within a proposed rural subdivision and will require minor and temporary soil disturbance for construction of the proposed infiltration gallery and wells. The project is located entirely on private land and control of noxious weeds is the responsibility of the landowner. The project is unlikely to promote the establishment or spread of noxious weeds.

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Determination: No significant impact.

No deterioration of air quality will occur from the proposed project.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

Determination: Not applicable – the project is not located on State or Federal lands.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

Determination: No impact

No other impacts on environmental resources of land, water and energy were identified.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

Determination: No significant impact.

Use of water for multiple domestic and lawn and garden irrigation purposes are consistent with locally accepted practices. The Applicant has proposed a mitigation plan that will offset depletions to surface water from groundwater pumping in full. No inconsistencies with locally adopted environmental plans and goals were identified.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

Determination: No impact

The project is located entirely on private land owned by the Applicant and will not impact access to or the quality of recreational and wilderness activities.

HUMAN HEALTH - *Assess whether the proposed project impacts on human health.*

Determination: No significant impact.

No impact on human health from this project was identified.

PRIVATE PROPERTY - Assess whether there are any government regulatory impacts on private property rights.

Yes ___ No X If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination: No significant impact.

OTHER HUMAN ENVIRONMENTAL ISSUES - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

Impacts on:

- (a) Cultural uniqueness and diversity? No significant impact
- (b) Local and state tax base and tax revenues? No significant impact
- (c) Existing land uses? No significant impact
- (d) Quantity and distribution of employment? No significant impact
- (e) Distribution and density of population and housing? No significant impact
- (f) Demands for government services? No significant impact
- (g) Industrial and commercial activity? No significant impact
- (h) Utilities? No significant impact
- (i) Transportation? No significant impact
- (j) Safety? No significant impact
- (k) Other appropriate social and economic circumstances? No significant impact

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts: No significant secondary impacts identified:

Cumulative Impacts: No significant cumulative impacts identified

3. *Describe any mitigation/stipulation measures:*

The Applicant has proposed to measure the volume and flow rate of water delivered to the infiltration gallery for mitigation. In addition, the surface water POD at the Hoy Ditch headgate is operated by the Hoy Ditch Company and a court-appointed water commissioner for Hyalite Creek. The proposed measurement and operation plans will

help ensure that the proposed project does not exceed the volume of water diverted historically and that an adequate volume is supplied for the mitigation purpose (Change Application 41H 30159389). The Applicant has also proposed measurement of water diverted at each well to ensure that the flow rate and volume proposed for the groundwater permit are not exceeded (Petition to Modify Permit 41H 30148637).

4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*

The no action alternative is to not change the purpose and timing of aquifer recharge for Statement of Claim 41H 15887-00 from what is authorized by Change Authorization 41H 30148636 to offset depletions associated with Permit 41H 30148637. This would not allow the Applicant to deliver water to the infiltration gallery earlier in the year, and the timing and purpose would not change from the previous Change Authorization (41H 30148636).

A reasonable alternative would be to leave the purpose and timing of aquifer recharge from 41H 15887-00 through Change Authorization 41H 30148636 as authorized by the previous change. This would result in no modification to Permit 41H 30143637 and no change to the timing of mitigation would occur.

PART III. Conclusion

1. *Preferred Alternative*

2 *Comments and Responses*

4. *Finding:*

Yes___ No X Based on the significance criteria evaluated in this EA, is an EIS required?

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: No significant impacts were identified, therefore no EIS is required.

Name of person(s) responsible for preparation of EA:

Name: Lyra Reynolds

Title: Regional Hydro-specialist

Date: December 12, 2023